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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,827	10/17/2003	Norbert Mueller	L034-002	2367

21567 7590 01/25/2005

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EXAMINER	
NGUYEN, THONG Q	

ART UNIT	PAPER NUMBER
2872	

DATE MAILED: 01/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/688,827	MUELLER, NORBERT	
	Examiner	Art Unit	
	Thong Q Nguyen	2872	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 October 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *28 October 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *10/28/04*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. The present Office action is made in response to the amendment of 10/28/2004. It is noted that in the mentioned amendment, applicant has made changes to the drawings and added a new set of claims 10-20 into the application.

A review of the newly-added claims 10-20 has resulted that the device of the new claims has the similar scope as that claimed in the original claims 1-9, and thus all pending claims 1-20 are examined in this Office action.

Drawings

2. The drawings contain corrections to figures 1-2 were received on 10/28/2004. These drawings are approved by the Examiner.

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1, 3-12, and 14-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parra (U.S. Patent No. 4,932,778, of record) in view of Colea (U.S. Patent No. 6,537,479, of record) and Kuzuu (Japanese reference NO. 4-110944).

Parra discloses a telescope device having an illuminating device and an eyepiece wherein the device is able to use for gun sighting. See column 1. In the embodiment described in column 4 and shown in figure 5, the device comprises an eyepiece lens (29) and an eye alignment element which is a reticle having a configuration of a crosshair or a circle (see column 4 and figs. 7(a-d)). At column

4, lines 36, Parra discloses that the configuration acted as the reticle is engraved onto the eyepiece lens (29). The only feature missing from the device having a reticle engraved onto the lens as provided by Parra is that he does not explicitly state that the reticle is internal engraved into the lens as claimed.

However, an optical element having an image internally engraved into the optical element by a laser action is known to one skilled in the art as can be seen in the optical element having an image formed by laser action provided by Colea. See columns 3-5 and fig. 3. In column 5, lines 31-39. Colea has stated that the formation of an internal image within the body of an optical element as disclosed by him can be applied to make reticles in optical devices such as a gunsight.

Regarding to the feature related to the image having parts with pre-selected different depths as recited in new claims 12 and 17, such a feature is provided by Colea as can be read in column 4 in which he discloses that the physical configuration of the image is able to form in three dimensions by moving the material and/or the laser during the process of making the image.

Regarding to the advantage of making a marking part inside a transparent volume in comparison to the formation of the marking part on the outer surface of the transparent volume, it is noted that the formation of the marking part inside the volume will prevent the dust attached to the marking part. The support for that conclusion is found in the system and method of making a marking part inside a transparent volume provided by Kuzuu. In particular, Kuzuu discloses a system having a laser source and a transparent material wherein the laser is

used to make a marking part inside the transparent volume. Kuzuu clearly discloses that the marking part made inside the transparent volume is for the purpose of preventing the dust to the marking part. It is also noted that the formation of the image or structure having a crack inside the transparent volume is disclosed by Kuzuu. See the English abstract.

Thus, it would have been obvious to one skilled in the art at the time the invention was made to modify the reticle engraved onto the eyepiece lens as provided by Parra by forming the reticle by an internal engraved process as suggested by Colea and Kuzuu for the purpose of eliminating the contaminants occurred during the time of forming a reticle on the optical element.

5. Claims 1, 3-4, 6-8, 10-12, 14-15 and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas et al (U.S. Patent No. 6,729,062, of record) in view of Colea (U.S. Patent No. 6,537,479, of record) and Kuzuu (Japanese reference No. 4-110944).

Thomas et al disclose a reticle for use in an optical sight. The reticle as described in columns 5-6 and shown in figure 3 comprises crosshairs formed in an optical element. It is noted that the formation of the crosshairs on the optical element is made by laser-engraved process as can be seen in claim 5 of the Patent. The only feature missing from the device having a reticle engraved onto the lens as provided by Thomas et al is that they do not explicitly state that the reticle is internal engraved into the lens as claimed.

However, an optical element having an image internally engraved into the optical element by a laser action is known to one skilled in the art as can be seen in the optical element having an image formed by laser action provided by Colea. See columns 3-5 and fig. 3. In column 5, lines 31-39. Colea has stated that the formation of an image can be made on the surface of the optical element or within the optical element. It is also noted that the formation of an internal image within the body of an optical element can be applied to make reticles in optical devices such as a gunsight.

Regarding to the advantage of making a marking part inside a transparent volume in comparison to the formation of the marking part on the outer surface of the transparent volume, it is noted that the formation of the marking part inside the volume will prevent the dust attached to the marking part. The support for that conclusion is found in the system and method of making a marking part inside a transparent volume provided by Kuzuu. In particular, Kuzuu discloses a system having a laser source and a transparent material wherein the laser is used to make a marking part inside the transparent volume. Kuzuu clearly discloses that the marking part made inside the transparent volume is for the purpose of preventing the dust to the marking part. It is also noted that the formation of the image or structure having a crack inside the transparent volume is disclosed by Kuzuu. See the English abstract.

Thus, it would have been obvious to one skilled in the art at the time the invention was made to modify the reticle engraved onto the eyepiece lens as

provided by Thomas et al by forming the reticle by an internal engraved process as suggested by Colea and Kuzuu for the purpose of eliminating the contaminants occurred during the time of forming a reticle on the optical element.

6. Claims 2 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parra in view of Colea and Kuzuu as applied to claims 1 and 12 above, and further in view of Phillips (U.S. Patent No. 5,414,557, of record).

The combined product as provided by Parra, Colea and Kuzuu does not disclose that the reticle formed by internally engraving process is adapted to the image field curvature of the device. However, it is known to one skilled in the art to make/form the shape of a reticle as a curved reticle which curve is matched with the field of curvature of an optical device. One example of forming a reticle as a curved reticle in an optical sight is referred to as can be seen in the optical device provided by Philips. See columns 6-7 and fig. 4. It is also noted that an image made by laser action within an optical element can have any kind of shape/configuration as desired by an operator. Thus, it would have been obvious to one skilled in the art at the time the invention was made to modify the combined product provided by Parra, Colea and Kuzuu by making a reticle having a curved configuration which curve matches the field of curvature of an optical device as suggested by Phillips for the purpose of providing a better image to an observer.

7. Claims 2 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas et al in view of Colea and Kuzuu as applied to claims 1 and 12 above, and further in view of Phillips (U.S. Patent No. 5,414,557, of record).

The combined product as provided by Thomas et al, Colea and Kuzuu does not disclose that the reticle formed by internally engraving process is adapted to the image field curvature of the device. However, it is known to one skilled in the art to make/form the shape of a reticle as a curved reticle which curve is matched with the field of curvature of an optical device. One example of forming a reticle as a curved reticle in an optical sight is referred to as can be seen in the optical device provided by Philips. See columns 6-7 and fig. 4. It is also noted that an image made by laser action within an optical element can have any kind of shape/configuration as desired by an operator. Thus, it would have been obvious to one skilled in the art at the time the invention was made to modify the combined product provided by Thomas et al, Colea and Kuzuu by making a reticle having a curved configuration which curve matches the field of curvature of an optical device as suggested by Phillips for the purpose of providing a better image to an observer.

Response to Arguments

8. Applicant's arguments with respect to claims 1-9 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thong Q Nguyen whose telephone number is (571) 272-2316. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew A Dunn can be reached on (571) 272-2312. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Thong Q Nguyen
Primary Examiner
Art Unit 2872

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